



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

RECENT DECISIONS

FRANCIS DE L. CUNNINGHAM, *Editor-in-Charge*

NORMAN H. SAMUELSON, *Associate Editor*

ANIMALS—BAILMENT—LIABILITY OF BAILOR FOR INJURIES BY VICIOUS HORSE.—The defendant bailed a horse to X by the day. The jury found that X had knowledge of its vicious propensities and that the defendant also had knowledge thereof. While in the possession of X, the horse bit the plaintiff. *Held*, the defendant was liable for the injuries. *Stapleton v. Butensky* (App. Div. 1st Dept. 1919) 177 N. Y. Supp. 18.

Where a bailment of an animal is made, the bailor knowing it to be vicious, but with no notice thereof in the bailee, the bailor is liable for resulting injuries, not under the absolute liability doctrine, but on the ground of negligence. *White v. Steadman* [1913] 3 K. B. 340; *Lynch v. Richardson* (1895) 163 Mass. 160, 39 N. E. 801. But since the bailee in the instant case had knowledge of the animal's viciousness, the case must be sustained, if at all, under the doctrine that one who keeps a wild animal does so at his peril. A so-called domestic animal falls within this rule when its keeper has knowledge of its viciousness. Salmond, *Torts* (4th ed.) § 127(2). It would seem, from an examination of the cases, that in every case to which the rule of absolute liability has been applied, the possession and control of the animal has been in the defendant or his agent or servant. Although there are no cases directly in point, it is submitted that, apart from statute, liability does not depend upon ownership but upon possession or harboring; *Stamp v. Eighty-sixth Street Amusement Co.* (1916) 95 Misc. 599, 159 N. Y. Supp. 683 (*semble*); *Miller v. Reeves* (Wash. 1918) 172 Pac. 815 (*semble*); he who keeps or controls the animal is responsible. Salmond, *op. cit.*, § 128(4); Ingham, *Animals*, 406; Robson, *Trespasses and Injuries by Animals*, 71. The instant case, therefore, is clearly without the rule, and it would be a grievous extension to hold a person absolutely liable for the acts of an animal over which he has no control. Especially is this so because the modern tendency seems to be to narrow the absolute liability doctrine to cases where the keeper has been at fault. See 22 *Harvard Law Rev.* 465, 478, 484; but *cf.* 32 *Harvard Law Rev.* 420. This stand is analogically supported by the cases exempting the owner of cattle from the general rule of absolute liability for trespass, where the cattle are under the control of, and in the possession of a bailee for a term. *Harrison v. McClellan* (1910) 137 App. Div. 508, 121 N. Y. Supp. 822; *Atwater v. Lowe* (1886) 39 Hun. 150; see *Van Slyck v. Snell* (N. Y. 1872) 6 Lans. 299, 302. It would seem therefore that the court in the instant case erred in allowing the plaintiff to recover from the bailor.

CONSTITUTIONAL LAW—EMPLOYERS' LIABILITY ACTS—LIABILITY WITHOUT FAULT.—The plaintiff recovered under an Arizona statute, providing for the liability of employers in all hazardous occupations for the death or injury of any employee due to conditions of such occupation, except where caused by the employee himself; the remedy afforded